

TO: Governing Board

FROM: Kenneth Schreiber, Interim Executive Officer

SUBJECT: Approve Fiscal Year 2014-2015 (July 1, 2014 through June 30, 2015) Santa Clara Valley Habitat Agency Budget

Recommended Action:

Adopt a Resolution approving the Fiscal Year 14-15 (July 1, 2014 through June 30, 2015) Santa Clara Valley Habitat Agency Budget.

Discussion:

On March 20, 2014, the Implementation Board held a workshop on a Draft Fiscal Year 2014-2015 budget (staff report attached).

On May 1, 2014, the Public Advisory Committee (PAC) reviewed the proposed FY 14-15 budget. The PAC adopted a motion recommending approval of the budget and transmitted the comments in the attached draft minutes.

On May 15, 2014, the Implementation Board reviewed the proposed FY 14-15 budget and recommended adoption by the Governing Board.

The attached June 19, 2014 Proposed FY 14-15 (2014-2015) Budget is identical to the budget reviewed by the Implementation Board with two changes:

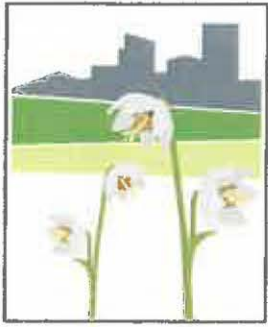
1. The budget authorization for the Executive Officer has been increased from \$200,000 to \$230,000 to reflect actual costs in the Employment Agreement with Edmund Sullivan and transition costs including \$7,500 for moving expenses and a \$10,000 contract with Land Use Planning Services for transition assistance.
2. The Plan Preparation and Endowment budget category (Cost Center 4.0) has been updated (from \$1,410,000 to \$1,424,392) based on slight differences in allocations among the revenue sources.

For background information on the Budget's recommended objectives, revenues and expenditures, see the attached May 15, 2014 Implementation Board staff report.

It is recommended that the Governing Board, after review, adopt the attached Resolution approving the FY14-15 Santa Clara Valley Habitat Agency budget.

Attachments: Resolution

Exhibit A: Santa Clara Valley Habitat Agency Proposed FY 14-15 Budget, June 19, 2014  
May 15, 2014 Staff Report, Implementation Board review of the Valley Habitat Agency  
Fiscal Year15 (2014-2015) Budget  
May 1, 2014 Public Advisory Committee Draft Minutes



SANTA CLARA VALLEY  
HABITAT AGENCY

## SANTA CLARA VALLEY HABITAT AGENCY

### FY14 -15 (July 1, 2014-June 30, 2015) BUDGET

June 19, 2014

## SANTA CLARA VALLEY HABITAT AGENCY

### FY14 -15 (July 1, 2014-June 30, 2015) BUDGET

#### Introduction

The Santa Clara Valley Habitat Agency (VHA) is a Joint Powers Authority established on April 26, 2013 to manage the implementation of the Santa Clara Valley Habitat Plan (VHP). The VHP is a Habitat Conservation Plan consistent with federal endangered species regulations and a Natural Community Conservation Plan consistent with State of California endangered species regulations.

The VHP has been adopted by six local jurisdictions (the cities of Gilroy, Morgan Hill and San Jose, the County of Santa Clara, the Santa Clara Valley Transportation Authority (VTA) and the Santa Clara Valley Water District) and the Santa Clara Valley Habitat Agency. These seven agencies are referred to as the Permittees. In July 2013, endangered species incidental take permits were issued to the seven Permittees by the U.S. Fish and Wildlife Service and the State of California Department of Fish and Wildlife. The Agency's development impact fees were effective on October 14, 2013.

The VHA's formation document provides for a fiscal year from July 1 to June 30.

It is assumed that there will be a mid-year budget review and update in late-2014 or early-2015.

An update on the FY14 (2013-2014) budget will be provided in May. A final reconciliation of the FY14 budget will occur after July 2014 when all expenses will have been compiled.

The FY14-15 Budget is divided into three sections:

- Objectives
- Revenues
- Expenditures

#### Budget Objectives

The FY14 (2013-2014) budget has an initial focus on addressing many policy and procedural issues necessary to create a functioning Habitat Agency. The 2013-2014 Budget objectives noted the intent to undertake planning for conservation implementation. Conservation-related work is increasingly the focus of the second half of the 2013-2014 budget year and will carry forward into 2014-2015.

In preparing the 2014-2015 Budget, eight objectives have been identified:

1. Continue and refine the efficient and effective use of the Habitat Plan in permitting of public and private sector projects.

A critical element of the Habitat Plan is streamlining the process for public and private sector projects to receive endangered species permits. Substantial progress has been made on creating a streamlined project permitting system but continued refinement of the permitting process is critical for implementing the Habitat Plan.

2. Obtain, in 2014, and begin implementation of the Army Corps of Engineers (COE) Regional General Permit (RGP) and initiate working with the Regional Water Quality Control Boards (RWQCBs) to find ways to use the Habitat Plan for RWQCB project reviews.  
The Regional General Permit from the COE will link use of the Habitat Plan with COE permits for impacts to federal waters for approximately 90 percent of projects that impact federal waters in the Habitat Plan's Permit Area. Approval of the RGP is likely by the Fall of 2014. The Habitat Agency will have a key role in facilitating project-specific use of the RGP. With approval of the RGP, attention will shift to working with the RWQCBs on achieving a similar linkage of the Habitat Plan with permits from the two RWQCBs.
3. Construct, in the Summer of 2015, at least one wetland restoration and/or creation project with a focus on actions needed to facilitate use of the Army RGP.  
Use of the RGP is dependent on the Habitat Agency implementing wetland restoration and/or creation projects. Undertaking the first wetland project in the Summer of 2015 is critical to use of the RGP.
4. Establish the process and begin implementation of enrolling into the Reserve System existing County of Santa Clara and Santa Clara County Open Space Authority open space sites.  
The Habitat Plan's Reserve System is assumed to include over 13,000 acres of existing open space. Conservation easements will have to accompany any land that becomes part of the Reserve System. Transiting some of the existing open space sites into the Reserve System should occur in FY 15 (2014-2015).
5. In 2014-2015 acquire, through acquisition by in fee title or conservation easement, one site for the Reserve System.  
Acquisition of a site will very likely occur through the County of Santa Clara (Parks and Recreation Department) and/or the Santa Clara County Open Space Authority. The Habitat Agency's projected 2014-2015 revenues assume receipt of \$2,000,000 of land acquisition grant revenue. Grant funds can be supplemented by Habitat Agency funds based on the FY15 Budget's projected local revenues.
6. Continue and refine work on planning for implementation of the conservation strategy with a focus on issues that have especially high priority and challenging components.  
Implementation of the Habitat Plan will require more detailed strategic planning and preparation of some technical documents. Overall, the effort is to develop and begin implementing work strategies and plans for topics with high Habitat Plan priority, complexity and community interest. Focused strategic plans will allow for faster and more cost effective work by the Habitat Agency. Nine areas have been identified for concentrated work starting in FY 14 and continuing in FY 14-15:
  1. Development of a pre-acquisition biological template for assessment of existing open spaces and potential future acquisitions;
  2. Enrollment of existing County of Santa Clara and Open Space Authority sites into the Reserve System;
  3. Grant Coordination;
  4. Burrowing Owl Conservation;

5. Wetland Restoration and Creation;
  6. Rangeland Management Planning;
  7. Serpentine Grassland Management;
  8. Connectivity and Permeability; and
  9. Monitoring and Adaptive Management.
7. Complete the system for collection of public and private sector project, Reserve System and other information to, in part, facilitate preparation of the 2015 Annual Report.
- The Habitat Plan requires collection of considerable information and related reporting to the State and federal Wildlife Agencies. The first Habitat Plan Annual Report is due in 2015. Efforts will continue to have a data collection system that records needed information in ways that facilitate monitoring implementation of the Habitat Plan and preparation of the Annual Report.
8. Develop and maintain a database of grant-related information and submit applications for applicable grants.
- Obtaining grant funding is an important part of the Habitat Plan's budget. In addition to land acquisition grants, there are sources of grant funding that can address other Habitat Plan needs such as data collection. It is anticipated that the County of Santa Clara Parks and Recreation Department will have a notable contractual role in grant application work.

#### Budget Revenues

A substantial portion of the private sector development in the Permit Area that has recently started construction are "pipeline projects" approved prior to October 14, 2013 (the effective date of the Habitat Agency's Development Fee Schedule). The "pipeline project" provision expires for applicable projects that do not obtain a grading or building permit until after July 31, 2014.

The revenue projections used in the FY 14-15 (2014-2015) budget are conservative in that they consider known private sector projects that have or are anticipated to obtain approvals in time to receive their first grading/building permits in the FY 14-15 (2014-2015) year. Some projects anticipated for payment of fees in FY 14-15 (2014-2015) may receive permits and make fee payments in June 2014. A reconciliation of the FY14 budget and transfers to FY15 will be brought to the Boards in the first months of FY 14-15.

Participating Special Entity fees are conservative projections based on current inquiries regarding obtaining a PSE Agreement.

Federal Section 6 grants for land acquisition are now limited by federal grant guidelines to a maximum of \$2,000,000 per grant and one grant for a Habitat Plan per federal budget year. It is anticipated that one grant will be obtained in FY 14-15 (2014-2015). The specifics of a grant application and award may have the funds allocated to the Habitat Agency or the agency (e.g., County Parks and Recreation, Open Space Authority) submitting the application.

**EXHIBIT A: SCVHA FY14 - 15 BUDGET**

**TABLE 1---REVENUES**

Land Cover (Zones A, B and C) Fees	\$ 6,000,000
Serpentine Fees	---
Western Burrowing Owl Fees	\$ 5,400,000
Nitrogen Deposition Fees	\$ 375,000
Wetland Fees	\$ 300,000
Sub-Total for Mitigation Fees	\$ 12,075,000
Participating Special Entity Fees	\$ 250,000
Participating Special Entity Cost Reimbursements and Surcharges	\$ 60,000
Grant Funds	\$ 2,000,000
<b>TOTAL REVENUE</b>	<b>\$ 14,385,000</b>

**Budget Expenditures**

Expenditures are allocated among six Cost Centers

**TABLE 2---EXPENSES**

Cost Center		FY15 (2014-2015) Budget
1.0	Administration/Support/Grant Services	\$ 877,455
2.0	Conservation Strategy Implementation	\$ 373,000
3.0	Technical and Permitting Support	\$ 490,000
4.0	Plan Preparation and Endowment	\$ 1,424,392
5.0	Capital Expenses	\$ 11,220,153
Total Budget		\$ 14,385,000

Within the cost centers, specific activities include:

Cost Center 1.0 Administration/Support/Grant Services (\$877,455)

- Executive Officer Salary \$230,000
- Legal Services 190,000
- Financial Services 110,000
- Clerk of the Board Services 56,855
- Office staffing via Morgan Hill 63,600
- Compliance Tracking and Annual Report 50,000
- Grant Coordination, Preparation and Admin 60,000

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**EXHIBIT A: SCVHA FY14 - 15 BUDGET**

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- Other Administrative Expenses 117,000

Recruitment for the Executive Officer and Legal Services positions/services is underway and the exact costs will be adjusted consistent with the recruitment process. Financial services includes the contract with the County Finance Agency as well as accounting services and an audit. Clerk of the Board and Office staff services are provided via contracts with the City of Morgan Hill. The Morgan Hill contract for office staffing will be amended to move the Management Assistant from one-half to three-quarter time effective July 1, 2014. The compliance tracking and annual report expenses are based on similar costs for the East Contra Costa Habitat Plan. The County of Santa Clara Parks and Recreation Department is likely to provide grant-related services via a contract with the Habitat Agency. Other Administrative Services includes rent of office space from the City of Morgan Hill (\$24,477), office equipment and supplies (\$9,500), insurance (\$5,000), application and user's manual updates (\$5,000), Travel reimbursements (\$6,000), Training (\$20,000), public education and outreach (\$15,000), memberships (\$10,000), and other expenses (\$22,000).

Cost Center 2.0 Conservation Strategy Implementation	(\$373,000)
• Technical Assistance regarding Plan interpretation and implementation issues and requests	\$66,000
• Information Management	77,000
• Waters Permitting	185,000
• Participating Special Entities	45,000

Technical assistance is provided primarily through a contract with ICF for general staff services including having a conservation biologist located two days a week in the Habitat Agency office. The major Information Management cost is an annual contract with the County for GIS services (\$67,000). Waters permitting includes completion of the Army Corps of Engineers Regional General Permit (RGP), RGP application development and training, RGP applicant support (new Cost Recovery Charge), and work with the Regional Water Quality Control Boards on finding a way to link the Habitat Plan to RWQCB permits. Participating Special Entity related expenses are primarily cost recovery work on specific applications.

Cost Center 3.0 Technical and Permitting Support	(\$490,000)
• Wetlands restoration and creation	\$220,000
• Assessment and conservation easements for existing open space	30,000
• Assessment of new lands for acquisition	50,000
• Rangeland Management, Serpentine, Burrowing Owl and Connectivity conservation	140,000
• Monitoring, Adaptive Management and Reserve Unit Management Planning	50,000

The objective of the wetlands restoration and/or creation work is to have a project ready to start construction in the Summer of 2015. Unspent FY14 funds (\$110,000 budgeted) are assumed to be carried forward as an additional FY 14-15 resource. Having a project go into construction in

the Summer of 2015 is critical for implementation of the Army Regional General Permit. Existing open space work and assessment of new lands undertaken by ICF will be linked to working with staff from County Parks and the Open Space Authority. Rangeland Management, Serpentine, Burrowing Owl and Connectivity conservation work includes developing specific conservation work plans, the required annual Burrowing Owl survey, Plan required coordination with organizations and agencies with Burrowing Owl expertise and, in some cases, control of actual and potential Owl habitat (e.g., Audubon Society, Don Edwards National Wildlife Refuge). The connectivity work is preparation for undertaking the Habitat Plan's three required connectivity studies. Monitoring, adaptive management and Reserve Unit Management Planning are required elements of the Habitat Plan. The intent for FY15 is to identify key issues and a related data collection strategy to facilitate ongoing data collection.

Cost Center 4.0	Plan Preparation and Endowment	(\$ 1,424,392)
•	Plan Preparation Reimbursement	\$ 150,000
•	Endowment Fund	1,274,392

The Habitat Agency's fee schedule includes a required reimbursement to the six Partners that developed the Plan (1.24% of fees) and setting aside 10.35% of fees into an endowment fund for post-Permit land management. The Plan Preparation reimbursement would be made at the end of the budget year based on actual fees paid.

Cost Center 5.0 Capital Expenses (\$11,220,153)

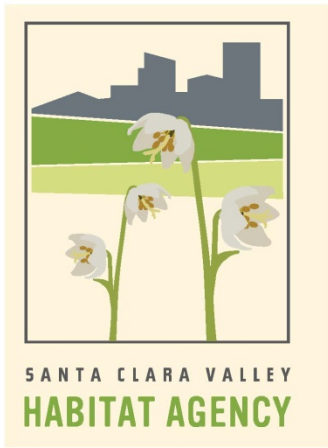
Capital expenses include the assumed revenue of \$2,000,000 from one or more grants and an additional \$2,000,000 of Habitat Agency funds for a land and/or easement acquisition and/or a wetland restoration/creation project. The \$7,220,153 of Habitat Agency funds are a Capital Expense Reserve for Specific Conservation Activities.

Attachment: FY 14-15 (2014-2015) Habitat Agency Budget

## FY 14-15 (2014-2015) BUDGET

	A	B	C	D	G	H	I	J	K	L	M
1		Santa Clara Valley Habitat Agency									
2		Proposed Habitat Agency FY15 (2014-2015) Budget									
3		<b>BUDGET REVENUES</b>	Land Cover Fees (Zone A,B,C)	Serpentine	Burrowing Owl	Nitrogen	Wetlands	PSE Surcharge	Undesignated	Grants	Total
5		Land Cover (Zones A, B and C) Fees	6,000,000	-	-	-	-	-	-	-	6,000,000
6		Serpentine Fees	-	-	-	-	-	-	-	-	0
7		Western Burrowing Owl Fees	-	-	5,400,000	-	-	-	-	-	5,400,000
8		Nitrogen Deposition Fees	-	-	-	375,000	-	-	-	-	375,000
9		Wetland Fees	-	-	-	-	300,000	-	-	-	300,000
10		Participating Special Entity Fees	205,000	-	-	-	-	45,000	-	-	250,000
11		<b>Sub-Total for Mitigation Fees</b>	-								<b>12,325,000</b>
12		Participating Special Entity Cost Reimbursements & Surcharges	-	-	-	-	-	-	60,000	-	60,000
13		Grant Funds - assuming award of grant(s)	-	-	-	-	-	-	-	2,000,000	2,000,000
14		<b>TOTAL BUDGET REVENUES</b>	-								<b>14,385,000</b>
15											
16		<b>BUDGET EXPENDITURES</b>	Land Cover Fees (Zone A, B, C)	Serpentine	Burrowing Owl	Nitrogen	Wetlands	PSE Surcharge	Undesignated	Grants	Total
17		<b>COST CENTER</b>									
18	1.0	<b>ADMINISTRATION/SUPPORT/GRANT SERVICES</b>									
19	a.	Executive Officer Compensation	230,000	-	-	-	-	-	-	-	230,000
20	b.	Legal Services	190,000	-	-	-	-	-	-	-	190,000
21	c.	Financial Services	110,000	-	-	-	-	-	-	-	110,000
22	d.	Clerk of the Board Services	56,855	-	-	-	-	-	-	-	56,855
23	e.	Office Staffing via Morgan Hill	63,600	-	-	-	-	-	-	-	63,600
24	f.	Compliance Tracking and Annual Report	50,000	-	-	-	-	-	-	-	50,000
25	g.	Grant Coordination, Preparation and Admin	60,000	-	-	-	-	-	-	-	60,000
26	h.	Other Administrative Expenses	117,000	-	-	-	-	-	-	-	117,000
27		<b>Sub-total</b>	<b>877,455</b>								<b>877,455</b>
28											
29											
30		<b>BUDGET EXPENDITURES</b>	Land Cover Fees (Zone A, B, C)	Serpentine	Burrowing Owl	Nitrogen	Wetlands	PSE Surcharge	Undesignated	Grants	Total
31	2.0	<b>CONSERVATION STRATEGY IMPLEMENTATION</b>									
32	a.	Technical Assistance regarding Plan interpretation and									
33		Implementation issues & requests	66,000	-	-	-	-	-	-	-	66,000
34	b.	Information Management	77,000	-	-	-	-	-	-	-	77,000
35	c.	Waters Permitting	-	-	-	-	185,000	-	-	-	185,000

	A	B	C	D	G	H	I	J	K	L	M
36	d.	Participating Special Entities	-	-	-	-	-	45,000	-	-	45,000
37		<b>Sub-total</b>	<b>373,000</b>								<b>373,000</b>
38											
39	3.0	<b>TECHNICAL AND PERMITTING SUPPORT</b>									
40	a.	Wetlands restoration and creation	-	-	-	-	220,000	-	-	-	220,000
41	b.	Assessment and conservation easements for existing open space	30,000	-	-	-	-	-	-	-	30,000
42	c.	Assessment of new lands for acquisition	50,000	-	-	-	-	-	-	-	50,000
43	d.	Rangeland Management, Serpentine, Burrowing									
44		Owl and Connectivity conservation	140,000	-	-	-	-	-	-	-	140,000
45	e.	Monitoring, Adaptive Management and Reserve									
46		Unit Management Planning	50,000	-	-	-	-	-	-	-	50,000
47		<b>Sub-total</b>	<b>490,000</b>								<b>490,000</b>
48											
49	4.0	<b>PLAN PREPARATION AND ENDOWMENT</b>									
50	a.	Plan Preparation Reimbursement	76,942	-	66,960	4,650	3,690	-	-	-	152,242
51	b.	Endowment Reserve Fund	642,218	-	558,900	38,813	32,220	-	-	-	1,272,150
52		<b>Sub-total</b>	<b>719,160</b>		<b>625,860</b>	<b>43,463</b>	<b>35,910</b>				<b>1,424,392</b>
53											
54	5.0	<b>CAPITAL EXPENSES</b>									
55	a.	Grant(s)	-	-	-	-	-	-	-	2,000,000	2,000,000
56	b.	HA funds - land/easement or wetland restoration/creation									
57		project. 'Placeholder' figure pending more details.	2,000,000	-	-	-	-	-	-	-	2,000,000
58	c.	Capital Expense Reserve for Specific Conservation Activities	7,220,153								7,220,153
59		<b>BUDGET EXPENDITURES</b>	<b>Land Cover Fees (Zone A, B, C)</b>	<b>Serpentine</b>	<b>Burrowing Owl</b>	<b>Nitrogen</b>	<b>Wetlands</b>	<b>PSE Surcharge</b>	<b>Undesignated</b>	<b>Grants</b>	<b>Total</b>
60		<b>Sub-total</b>	<b>11,220,153</b>								<b>11,220,153</b>
61											
62		<b>TOTAL BUDGET EXPENDITURES</b>	<b>13,679,768</b>				<b>&lt;105,000&gt;*</b>	<b>&lt; 0 &gt; **</b>			<b>14,385,000</b>
63		*Wetland expenditures are currently -105,000 based on									
64		wetland fees (revenues) of 300,000									
65		**PSE Surcharges (expenditures) are currently 0 based on									
66		PSE Surcharges (revenues) of 45,000									
67											



TO: Implementation Board

FROM: Kenneth Schreiber, Interim Executive Officer

SUBJECT: Review and Recommend to the Governing Board Adoption of the Fiscal Year 15 (2014-2015)  
Santa Clara Valley Habitat Agency Budget (Implementation Board and Governing Board)

Recommended Action: Review and make recommendations to the Governing Board on adoption of the Fiscal Year 15 (2014-2015) Habitat Agency budget.

Discussion:

On March 20, 2014, the Implementation Board held a workshop on a Draft FY15 (2014-2015) budget (staff report attached).

On May 1, 2014, the Public Advisory Committee (PAC) reviewed the proposed FY15 budget. The PAC adopted a motion recommending approval of the budget and transmitted the comments in the attached minutes.

The Governing Board will consider adoption of the FY15 (2014-2015) budget on June 19, 2014.

The attached May 7, 2014 Proposed FY15 Budget is very similar to the Draft Budget reviewed at the March Budget Workshop. Changes are:

*Objectives:*

One additional objective has been added:

5. In 2014-2015 acquire, through acquisition by in fee title or conservation easement, one site for the Reserve System.

Acquisition of a site will very likely occur through the County of Santa Clara (Parks and Recreation Department) and/or the Santa Clara County Open Space Authority. The Habitat Agency's projected 2014-2015 revenues assume receipt of \$2,000,000 of land acquisition grant revenue. Grant funds can be supplemented by Habitat Agency funds based on the FY15 Budget's projected local revenues.

*Revenues:*

Impact fee revenues have been adjusted from a total of \$11,750,000 in March to \$12,385,000 based on refined estimates from local Permittees and Participating Special Entity fees and

charges of \$310,000. In addition, \$2,000,000 of Grant funds have been added to the Revenue total. Total Agency Revenue is projected at \$14,385,000.

TABLE 1---REVENUES

Land Cover (Zones A, B and C) Fees	\$ 6,000,000
Serpentine Fees	---
Western Burrowing Owl Fees	\$ 5,400,000
Nitrogen Deposition Fees	\$ 375,000
Wetland Fees	\$ 300,000
Sub-Total for Mitigation Fees	\$ 12,075,000
Participating Special Entity Fees	\$ 250,000
Participating Special Entity Cost Reimbursements and Surcharges	\$ 60,000
Grant Funds	\$ 2,000,000
TOTAL REVENUE	\$ 14,385,000

*Expenditures:*

Cost Center 1.0 Administration/Support/Grant Services (\$847,455)

Compliance and Annual Report costs have been increased from \$25,000 to \$50,000 based on analysis of East Contra Costa HCP/NCCP actual costs.

Cost Center 2.0 Conservation Strategy Implementation (\$373,000)

No changes from March budget.

Cost Center 3.0 Technical and Permitting Support (\$490,000)

No changes from March budget

Cost Center 4.0 Plan Preparation and Endowment (\$ 1,410,000)

Increased from \$1,345,000 to reflect increased fee revenue projections.

Cost Center 5.0 Capital Expenses (\$11,264,545)

Added to the Budget to recognize objective of acquiring one new site for the Reserve System and one wetland restoration project. Funds include assumption of a \$2,000,000 grant and use of \$2,000,000 of Agency funds. Funds also include other Revenues (\$7,264,545) not allocated to Cost Centers 1.0, 2.0, 3.0 and 4.0. Any project-specific use would require Implementation Board approval. The \$7,264,545 of Habitat Agency funds are a Capital Expense Reserve for Specific Conservation Activities.

TABLE 2---EXPENSES

Cost Center		FY15 (2014-2015) Budget
1.0	Administration/Support/Grant Services	\$ 847,455
2.0	Conservation Strategy Implementation	\$ 373,000
3.0	Technical and Permitting Support	\$ 490,000
4.0	Plan Preparation and Endowment	\$ 1,410,000
5.0	Capital Expenses	\$ 11,264,545
Total Budget		\$14,385,000

It is recommended that the Implementation Board, after review, recommend a FY15 (2014-2015) budget to the Governing Board.

Attachments: Santa Clara Valley Habitat Agency Proposed FY15 (2014-2015) Budget, May 7, 2014  
March 20, 2014 Staff Report, Valley Habitat Agency Fiscal year 15 (2014-2015) Budget Workshop  
May 1, 2014 Public Advisory Committee Minutes

# SANTA CLARA VALLEY HABITAT AGENCY

## PUBLIC ADVISORY COMMITTEE MEETING REGULAR MEETING MINUTES---DRAFT

THURSDAY, May 1, 2014  
6:00 PM

### CALL TO ORDER

Chair Glines called the Regular Public Advisory Committee meeting to order at 6:02 p.m.

### ROLL CALL ATTENDANCE

PRESENT: Walt Glines, Craige Edgerton, Jan Hintermeister, Richard Oliver (Left at 7:25), Jennifer Scheer, Joseph Lovelace

ABSENT: Georgia Trefts Garfink, Julie Hutcheson, Kyle Wolfe (Arrived at 6:05)

## PUBLIC ADVISORY COMMITTEE ACTION

### REGULAR BUSINESS:

1. **APPROVE THE MINUTES OF THE FEBRUARY 6, 2014 REGULAR MEETING OF THE PUBLIC ADVISORY COMMITTEE**

**Recommended Action: Approve** minutes.

Action: On a motion by Committee Member Edgerton and seconded by Committee Member Oliver **Approving** the February 6, 2014 meeting minutes. The motion passed by the following vote: Ayes 6 (Glines, Edgerton, Hintermeister, Oliver, Scheer, Lovelace); Noes 0; Absent 3 (Trefts Gafink, Hutcheson, Wolfe).

Chair Glines introduced new Committee Member Richard Oliver

2. **HABITAT AGENCY'S PROPOSED FY15 (2014-2015) BUDGET**

**Recommended Action: Review** the FY15 Proposed Budget and Make Recommendations to the Implementation Board and Governing Board.

Interim Executive Director Schreiber presented the staff report

Chair Glines opened public comment on the Objections section of the budget at 6:29, hearing no request to speak public comment was closed.

Committee Member Scheer asked when the TAC will be put in place.

Interim Executive Director Schreiber stated that it would be a task for the new Executive Officer.

Committee Member Lovelace looking at Objectives 4, 5 and 6 and the revenues, asked if they will be moving forward with some projects. He would like to, as a member of the Public Advisory Committee,

be able to do some outreach and talk to people about these plans and hopefully generate some interest and education about what is going on here, he stated that it would be nice if we had a project that can reflect our efforts and earnings here. Is there something in the works?

Interim Executive Director Schreiber thinks it is reasonable that in 2014/15 the Agency should have a new piece of land to add to the reserve system.

Committee Member Lovelace looking at the wetland fees on table one and noticed that it's the third lowest fee there of monies collected, he thought wetlands would bigger greater of revenues for the plan and is wondering if it is not representative because of the per foot linear foot issue with the bank, assumed that wetlands because of that amount per acre fee schedule would be more.

Interim Executive Director Schreiber stated that Santa Clara Valley Water District loaned the Habitat Agency half a million dollars some years ago to help get the agency started, that was a pre payment of wetland fees, so they are not here, we already got the money in the bank, we are drawing down the money but the point is that they will be having some projects coming through that they will then take their credit from the money that they loaned us. So that is one amount, the effort here has been to be conservative. By in large developers whether large property or small individual parcel usually can figure out a way to stay out of the water and the Habitat Plan is an even bigger reason to stay out of the water because of the fees. Some people have to work in the water. That's much more for the public sector than the private sector so when you look at the total wetland fees over the next 50 years probably 70-80% are public sector groups because the public sector has to work in the water. You have the Coyote Creek trail and park, the county has to be in the water.

Committee Member Edgerton asked what would happen if currently a piece of property became available right now and all of the rules and regulations aren't in place, is it possible for the agency to purchase a property now that's a high priority?

Interim Executive Director Schreiber stated that he thinks the agency would, especially because land acquisition will most likely come in conjunction with the Open Space Authority and or Santa Clara County Parks and Recreation. The assumption is that the Habitat Agency is sort of the third choice down in the list to actually physically acquire land and do a real estate deal etc. The Open Space Authority and County Parks have the expertise staffing, resources and experience to do those kinds of things and one of the things the elected officials stress in developing the plan is to every extent possible let's make use of existing expertise existing resources lets contract with the locals.

Committee Member Edgerton asked- Are you saying that the County and OSA would do the negotiations and plan everything but the funding would actually come from the Habitat Plan?

Interim Executive Director Schreiber said the answer is yes.

Jim Rowe Morgan Hill Staff Planner and Co-Permittee representative stated that since the agency consist of 1 ½ people, we are going to rely on our other partners to facilitate the process in negotiations and acquisitions and so forth.

Committee Member Edgerton is trying to understand the budgeting, if staff from Morgan Hill comes in and works for six months on a project do they get paid by Morgan Hill or by the Habitat Plan?

Interim Executive Director Schreiber said that is an issue specific question. If it is part of Morgan Hill's routine of work, they are providing some expertise, attending some meeting, etc. etc. it may be viewed as the expected. It is expected that the co-permittees are going to be actively involved, staff has to be actively involved. It is providing a very specific service then it would be a contract because it would go above and beyond anything they normally would do.

Committee Member Edgerton said that it just seems like there should be some guidelines on that. When it was agreed that OSA and the County could put lands in to the reserve, I testified against that, because to me it was double dipping, so what I want to know is, the lands that go in to that from those agencies since they're already protected lands what exactly, I still haven't got clear why and how that can be done, I know it can't be changed now, I understand that but what exactly, does it have to be land that's got one of the covered species on it or can it be something larger than that?

Interim Executive Director Schreiber- the level of protection would be higher, with a conservation easement that significantly restricts the uses of a property, not totally eliminate but uses would be notably restricted, the quality of management for species would increase and the commitment in perpetuity as a legal agreement.

Committee Member Edgerton asked- So you are saying that the OSA, right now, they got 1500 acres serpentine on one of their properties somewhere, you are saying that they are not given the protection now? And I don't know what the Habitat Plan is going to do above and beyond what they are already doing, one specifically it's been closed for seven years since they bought the property so it's already in place. I still don't understand what the benefit to the OSA is or the public by having this extra layer, the assumption is that OSA is not doing a good job or not doing a proper job.

Interim Executive Director Schreiber- No, I can't really speak to OSA but I know County Park's staff and I have said over the years that they get very frequent inquiries to buy parkland because it will fill out some bodies development proposal, it would provide the access to land and they want to buy the parkland.

Don Rocha, Natural Resource Manager for Santa Clara County Parks and Recreation - For County Parks it is preserved under the park charter and we have to meet the park preservation act for park charter so we could do land swaps and things like that but it has to be equivalent to and meet the park charter because that's what the funds are directed towards. What the Habitat Agency provides on public lands and county parks specifically is that with county parks there's a lot of competing interests with recreation and development for recreation so construction of more trails, construction of more recreational areas, construction of more active recreation, we get a lot of pressure for doing those types of things so putting more land use restrictions because we are able to do those types of things, acquiring the proper permits we can construct more things within our part for the recreation aspect, the Habitat Agency and doing a conservation easement with the Habitat Agency puts more protections on landscapes and restriction on what type of development that we can use that we are compatible with the strategic conservation measures so as an agency our mission is to provide protective preserve regional parkland, it's not protected through legislature like a state park is. We have the discretion to say if we want to develop something to provide more recreational access so right now the mission and vision and the direction from the elected and the park administration executive management is towards stewardship and towards preservation 30-50 years in perpetuity as more pressure comes from the elected officials and other areas there is ability to do more active recreation if that's the way the board wants to go and it meets the guises of the charter. One thing that a conservation easement would

provide for the county parkland is more conservation, meeting the goals of the conservation strategies and putting legal protections on top of those where right now we have more flexibility to do development if we gain the permits we could build a recreation area somewhere in serpentine we can build a visitors center if we needed to so those legal protections are not there if we get the permits, now with the habitat agency in annulling those things that puts a little more restrictions on the property as far as that goes. Which also goes back to somebody's question before, about the timing if doing conservation easements and getting land protected and things like that. That's what we are working on right now, is trying to develop in a conceptual mindset of what is the futuristic needs of a park and meeting the needs of the community as a park and recreation agency. We are not just about preservation we also want to provide open and available access of these lands to the public so we want to make sure that we have at least a conceptual recreation plan in place before we enter in to a conservation easement with the habitat agency and the wildlife agencies, we want to make sure that we are protecting these lands as being open for the public to be able to enjoy them as well as preserve them and meet the strategic goals and the conservation strategies of the Habitat Agency. The current direction of the department is that we are one of the original parks agency that actually has a natural resource program and we fund it fairly well we have a lot of staff that's working towards it so our mission and the direction right now is stewardship and protection of lands but the only protections of the land is through the park charter which allows for recreation and providing recreation, providing recreational access so that the conservation easement would put more restrictions and protections toward the stewardship and the land preservation versus towards recreation which is kind of the direction as it is now that the voters have approved. The other benefit for the land use agency or the public land management agencies is that it provides more funding and opportunity to better steward our land it's not that OSA [Open Space Authority] or County Parks are doing a bad job it's that we have competing interests. For our budgets I'm competing for development of recreation and recreation sites which a lot of the constituents for Santa Clara want more access to lands and more picnic areas more camp grounds more active recreation so when I put in a budget request for doing some type of project I'm competing with those funds once the land is conserved under a conservation easement with more restrictions and more emphasis on land preservation there is availability of more funding that we can do a better job of stewarding our lands towards conservation measures and meeting conservation strategies of the plan which is in line with county parks' philosophy in what we do anyway but it helps us to better put more protection in place for the preservation of parklands which is why county parks has been involved with the planning process of this.

Committee Member Scheer- questions on revenues section federal section 6 grants, it says Are now limited, was that planned for in the revenue projections for the budget? Because my recollection is that about half of the revenue comes from grants, are we not going to be able to meet our long term goals because of that cap?

Interim Executive Director Schreiber- not half of it from federal grants, a lot of it from grant sources. It use to be unlimited then it was 6 million then it was three million now it's a two million cap and that's the result of the federal budget. So the question really is maintaining those funding programs.

Committee Member Scheer- can you find the amount of federal section 6 grants that were projected over the life of the plan. Also the Western Burrowing Owl Fees are 5.4 million, is that all from development of western burrowing owl sites?

Interim Executive Director Schreiber – yes.

Chair Glines opened public comment regarding the Revenue section on the budget at 6:58, hearing no request to speak public comment was closed.

Committee Member Hintermeister - wanted to ask about the private plan preparation and endowment, believes they should be called out separately.

Committee Member Scheer- question on the Western Burrowing Owl Lands that might come from Don Edwards or Audubon, the Habitat Agency would take over management of those at an expense, and how would that factor in, what is the win for the Habitat Agency.

Interim Executive Director Schreiber- finding a conservation strategy for Western Burrowing Owl, given how precarious the population is, was very difficult and it had to expand the conservation area all the way up to the Dumbarton Bridge and over to the City of Newark. It's a south bay approach rather than a Habitat Agency approach.

Committee Member Scheer- In the interim then there will be expenses associated with these? I'm just not clear on how the benefit is measured to the Habitat Agency.

Interim Executive Director Schreiber- Its measured in terms of the amount of acres

Committee Member Scheer- even if they are temporary?

Interim Executive Director Schreiber- even if they're a 5-10 year lease the amount of acres that we can get commitment on in terms of owls and that is another unusual feature. The initial strategy is to go after lands that can be leased for an agreement where something can be done.

Committee Member Hintermeister when you are describing capital expenses in terms of your objectives capital expenses both restoration activities and acquisition?

Interim Executive Director Schreiber- I would look in to that land acquisition and major restoration activities.

Chair Glines- have we identified projects for those 4 million dollars?

Interim Executive Director Schreiber- no, this is a pot of money that is sitting there to be available when opportunities come along and I think there is a very strong likelihood that opportunities will unfold in the next six months.

Chair Glines- similar question on un-appropriated reserves, that is a lot of money but as you were talking about it is seems like most of that is for land or conservation permits or something and so is that really the proper spot in the budget for it?

Interim Executive Director Schreiber- I didn't know where else to put it because it's not being appropriated for anything but I needed to account it.

Chair Glines- it sounds to me like capital expenses.

Schreiber- No, Capital Expenses are funds which are clearly intended to be used for some future capital expense.

Chair Glines- the conservation biologist for two days a week, will there be enough work for that person?

Interim Executive Director Schreiber- yes she is currently working more than two days a week.

Chair Glines opened public comment regarding the Expenses Section of the budget at 7:07

Josh McCluskey, Burrowing Owl Conservation Manager with Santa Clara Audubon Society- for western burrowing owl fees we are looking at 5.4 million estimate so that's 107 acres total development out of 198 possible but then on the expenses for this next year burrowing owl is lumped in with range land and connectivity studies and it seems that if you are losing half your land you may want to throw a little more funds in to your conservation strategy to make sure it's up to par. Looking at the number has me concerned.

Interim Executive Director Schreiber- that's one of the issues the resource group is going to have to grapple with.

Hearing no further requests to speak public comment was closed.

Committee Member Hintermeister recommended that a portion of the unallocated reserves be directed as a priority toward conservation efforts for burrowing owls.

Action: On motion by Committee Member Hintermeister and seconded by Committee Member Lovelace to move that the Public Advisory Committee pass on a favorable recommendation on the proposed budget with the items discussed. The motion passed by the following vote: Ayes 7 (Glines, Edgerton, Hintermeister, Oliver, Scheer, Lovelace, Wolfe); Noes 0; Absent 2 (Trefts Gafink, Hutcheson).

### **3. HABITAT AGENCY'S PARTICIPATING SPECIAL ENTITY PROCESS**

**Recommended Action: Review** Information on the Habitat Agency's Participating Special Entity Process.

Interim Executive Director Schreiber presented the staff report

Committee Member Scheer asked if the plan currently has X amount of acres and X amount of dollars, using your Gilroy example, would that increase the number of acres and the dollars or are they just helping to fund the existing Plan? I understand how it helps Gilroy, but if it's not increasing the number of acres or dollars then it's not helping the cities.

Interim Executive Director Schreiber- it doesn't increase the amount of total take. What it does do is provide mitigation fee revenue and there is a surcharge applied to it which is either 10% of the fee or \$5,000 whichever is greater and the PSE has to pay the actual cost of all the staff time.

Terah Donovan explained the PSE process.

Committee Member Oliver excused himself from the remainder of the meeting at 7:25 p.m.

Chair Glines opened public comment at 7:23, hearing no request to speak public comment was closed.

Josh Mcklosy Santa Clara Audubond Society stated that as far as public review, the website is mundane for these applications, requested more clarity and transparency.

Committee Member Scheer recommended the Participating Special Entity (PSE) applications be posted to the Agency's website.

Hearing no further requests to speak public comment was closed.

**4. HABITAT AGENCY'S APPLICATION FOR PRIVATE PROPERTY HABITAT PLAN COVERAGE**

**Recommended Action:** **Review** the Habitat Agency's Screening Form, Worksheet and Application Form Available on the Habitat Agency Website.

Interim Executive Director Schreiber presented the staff report.

Terah Donovan explained the application process.

Jim Rowe Morgan Hill Staff Planner and Co-Permittee representative, further explained the application process.

Chair Glines opened public comment at 7:44

Doug Muirhead, Morgan Hill resident, asked if the agency has a priority mechanism. Is there some way that if you are coming in to the agency because of the habitat requirements that you can have some influence short of throwing some money out on the table.

Hearing no further request to speak public comment was closed.

**5. DISCUSSION WITH HABITAT AGENCY AND CO-PERMITTEE STAFF AND CONSULTANTS  
QUESTIONS REGARDING CONTENT AND IMPLEMENTATION OF THE ADOPTED HABITAT PLAN**

**Recommended Action:** *For information only. No action.*

Committee Member Hintermeister noted the high take coverage based on the projected burrowing owl impact fees and asked for a report back re burrowing owl conservation strategies.

Committee Member Scheer would like to know about any introductory meetings held by the Habitat Agency for other groups. She would like any report back from those types of meetings.

Committee Member Lovelace would like to move in to the general public to go out and spread the news about the plan.

Chair Glines opened public comment at 7:50

Josh McCluskey Santa Clara Audubon Society would like item 5 re-worded for clarification on future agendas.

Hearing no further request to speak public comment was closed.

**FUTURE BUSINESS ITEMS:**

None.

**ADJOURNMENT**

There being no further business, Chair Glines adjourned the meeting at 7:56 p.m.

**MINUTES PREPARED BY:**

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Angie Garcia, Council Services Assistant

**MINUTES APPROVED BY:**

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Walt Glines, Committee Chair

**MINUTES ATTESTED BY:**

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Michelle Wilson, Deputy City Clerk